

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DAVID R. MYRLAND,

Petitioner,

Case No. C13-1680-MJP-JPD

V.

## REPORT AND RECOMMENDATION

PIONEER FELLOWSHIP HOUSE, *et al.*,

## Respondents.

15 On September 16, 2013, petitioner David Myrland submitted to this Court for filing a  
16 proposed petition for writ of habeas corpus. (See Dkt. 1.) The petition was prepared by a  
17 “next friend,” Christopher Chapman, who indicated in the petition that petitioner had asked him  
18 to file the action because petitioner had no access to a computer or typewriter, and no access to  
19 envelopes, postage, or a printer. (See *id.* at 5-6.)

20 The Clerk opened the instant action and, on September 18, 2013, sent petitioner a letter  
21 advising him of his case number and judge assignment. (Dkt. 3.) On October 1, 2013, the  
22 Clerk's letter, which was mailed to petitioner at his address of record, the Pioneer Fellowship

01 House in Seattle, Washington, was returned by the post office with a notation indicating that the  
02 addressee was not known and that the mail could not be forwarded. (Dkt. 6.) To date,  
03 petitioner has not provided the Court with a new address.

04 Subsequent to the Clerk directing the letter to petitioner at his address of record,  
05 petitioner's purported "next friend," Mr. Chapman, submitted additional documents to the  
06 Court on petitioner's behalf and, for the first time, provided his own address. However, the  
07 Court declines to recognize Mr. Chapman's address as petitioner's address of record because  
08 Mr. Chapman lacks standing to proceed on petitioner's behalf.

09 Under Article III of the United States Constitution, a federal court cannot consider the  
10 merits of a legal claim unless the person seeking to invoke the jurisdiction of the court  
11 establishes that he has standing to sue. *Vargas v. Lambert*, 159 F.3d 1161, 1166 (9th Cir.  
12 1998)(citing *Whitmore v. Arkansas*, 495 U.S. 149, 154 (1990)). In *Whitmore*, the Supreme  
13 Court recognized that a habeas petitioner may demonstrate standing as a "next friend" of the  
14 real party in interest. *Whitmore*, 495 U.S. at 1726-27. However, a petitioner seeking "next  
15 friend" standing must, at a minimum, demonstrate that (1) the real party in interest cannot  
16 appear on his own behalf to prosecute the action because of his inaccessibility, mental  
17 incompetence, or other disability, and (2) the "next friend" is truly dedicated to the best  
18 interests of the person on whose behalf she seeks to litigate. *Whitmore*, 495 U.S. at 1727.  
19 Nothing in the record at this time demonstrates that the real party in interest, David Myrlan,  
20 lacks the ability to appear on his own behalf to prosecute this action.

21 Because Mr. Chapman lacks standing to proceed on petitioner's behalf, and because  
22 over sixty days have passed since mail directed to petitioner at his address of record was

01 returned by the post office without petitioner having notified the Court of his current address,  
02 this action should be dismissed, without prejudice, for failure to prosecute pursuant to LCR  
03 41(b)(2). A proposed order accompanies this Report and Recommendation.

04 DATED this 15th day of January, 2014.

05   
06 JAMES P. DONOHUE  
07 United States Magistrate Judge

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